



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

AUG 17 2009

Ref: 8EPR-N

Ronald W. Jablonski, Jr.,
District Ranger
Medora Ranger District
99 23rd Ave W., Suite B
Dickinson, ND 58601

Re: North Billings County Allotment
Management Plan Revisions Draft
Environmental Impact Statement
CEQ # 20090225

Dear Mr. Jablonski:

The U.S. Environmental Protection Agency (EPA) Region 8 has reviewed the Forest Service's Draft Environmental Impact Statement (DEIS) for the North Billings County Allotment Management Plan Revisions. Our comments are provided for your consideration pursuant to our responsibilities and authority under Section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4332(2)(C), and Section 309 of the Clean Air Act, 42 U.S.C. Section 7609. It is EPA's responsibility to provide an independent review and evaluation of the potential environmental impacts of this project, which includes a rating of the environmental impact of the proposed action and the adequacy of the NEPA document.

Document Rating

In accordance with our policies and procedures for reviews under NEPA and Section 309 of the Clean Air Act, EPA is rating this DEIS as Environmental Concerns - EC, Insufficient Information - 2 (EC-2). Because the preferred alternative was not identified in the DEIS, we are rating the DEIS based on Alternatives 2, 3, and 4 (we do not rate the no action alternative). The EC rating means that EPA's review of the proposed alternatives has identified environmental impacts that should be avoided in order to fully protect the environment. These environmental concerns are impacts to water quality and riparian habitats that are inherent in all grazing plans. The DEIS received a 2 rating because it does not contain sufficient information to assess the environmental impacts to water quality that should be avoided in order to fully protect the environment. Additional information documenting the adaptive management plan for the proposed project is also needed. A full description of EPA's EIS rating system is enclosed.

Project Background

The Forest Service proposes to continue to permit livestock grazing on 43 allotments in

the Medora Ranger District, Billings County, North Dakota. This district is part of the Dakota Prairie Grasslands. The purpose of the project, as stated in the DEIS, is to develop Allotment Management Plans (AMP) to "permit livestock grazing in a manner that maintains and/or moves resource conditions towards meeting Grasslands Plan objectives;" greater overall management flexibility is also needed for successful management and attainment of objectives. A preferred alternative was not identified in the DEIS.

EPA Concerns

Our primary concerns are the preservation of riparian habitat within the allotments and prevention of impacts to water quality. We also recommend additional information be included in the adaptive management plan.

Wetland and Riparian Impacts

Because cattle are known to congregate in wetland and riparian habitats during hot weather, impacts to these fragile habitats are always of concern in allotment management plans. We are pleased to see meeting or moving toward the Grasslands Plan Desired Condition of "Properly Functioning Condition (PFC) on at least 80 percent of perennial streams" listed as a need for this project. However, since 50% of perennial streams are already properly functioning, we suggest you do not constrain project goals and adaptive management strategies to meeting this condition. We recommend you include a commitment to continue implementing strategies for stream health improvements beyond 80% of perennial streams, as well as improving intermittent streams where possible.

We note that for riparian concerns, EPA prefers Alternative 4. The generally lower authorized use of this alternative decreases stress on riparian habitats. Additional riparian exclosures included as initial action projects in this alternative will also be critical for protecting Whitetail Creek, Magpie Creek, Mike's Creek, and Blacktail Creek.

Water Quality

EPA is concerned about the lack of water quality data or discussion in the DEIS. Cattle grazing has the potential to degrade water quality through increased sedimentation and loading of nutrients and pathogens. We recommend the adaptive management plan include monitoring for the following water quality parameters:

- Fecal coliform and total bacteria counts;
- Nutrient concentrations; and
- Temperature.

We note that the PFC assessment in the DEIS assesses stream bank condition and vegetation cover, two additional critical measures of watershed health. EPA is pleased with the thoroughness of this assessment for the project area. However, we recommend that the Forest Service incorporate baseline water quality assessments into PFC assessments for future projects.

The EIS should also identify any streams within, or downstream of, the project area that are not supporting beneficial uses. Any water body on the Clean Water Act Section 303(d) list of

impaired waters, or on the 303(d) monitoring list, should be identified along with the pollutants of concern for that segment. We note that the Little Missouri River is currently listed as impaired downstream of the confluence with Beaver Creek for fecal coliform. This listing occurs at the border of Billings and McKenzie Counties, immediately downstream of the proposed project area. The Little Missouri River has not been assessed for fecal coliform or other pathogens from its confluence with Government Creek to its confluence with Beaver Creek. A discussion of how the proposed project may impact the Little Missouri River impairment, as well as any other impaired or potentially impaired waters, is needed.

Adaptive Management Strategy

EPA is very pleased with the level of detail included in the adaptive management strategy in the DEIS. We are also pleased with the wide range of adaptive management options present in the "tool box." However, it is important that the potential impacts of the possible adaptive management tools are clearly defined in the EIS. We recommend that a description of the potential impacts, positive and negative, of each tool on all resources of concern be included in the document. Along with this information should be a commitment that a tool will not be selected for adaptive management use if it will result in negative impact to any resource.

A firm commitment of resources for effectiveness monitoring should be included in the EIS. Adaptive management cannot be employed without the full implementation of its associated monitoring schedule. Consequently, an environmentally conservative default management plan should be defined in case adequate resources for monitoring cannot be secured. The explanation of future decision points that would require NEPA analysis will also be beneficial in clarifying what is and isn't considered within the bounds of adaptive management.

We recommend that you remove, or explain more fully, the note that "hitting a trigger point doesn't necessarily mean a change is needed" (pg. 2-21). Although this statement may be true in certain cases, including it in the document negates the critical commitment to the adaptive management plan, and could provide a way for future managers to avoid needed adaptive measures. We also recommend you include the trigger points in the allotment summary sheets (Appendix A) for ease of reference and to ensure commitment. Finally, we recommend, as described above under "Water Quality," that you add water quality as a monitoring item in the Effectiveness Monitoring schedule (pg. 2-20).

EPA Preferred Alternative Recommendation

Although Alternatives 2, 3, and 4 all received the rating of EC-2 in this review, this does not mean that we view them as equivalent. EPA recommends selection of Alternative 4 as the Preferred Alternative. Initial management actions proposed in Alternative 4 already contain measures to reduce environmental impacts, and the proposed adaptive actions present further opportunity for avoidance or mitigation of undesirable environmental consequences. We hope that the comments regarding protection of riparian areas and water quality provided in this letter will assist you in further reducing environmental impacts of this project. Additionally, we look forward to seeing further detail in the adaptive management plan in your Final EIS.

Thank you for the opportunity to comment on this DEIS. If you have any questions on the comments provided in this letter, please contact me at 303-312-6004, or you may contact Molly Brodin of my staff at 303-312-6577.

Sincerely,



Larry Svoboda
Director, NEPA Program
Office of Ecosystems Protection and Remediation

Enclosure: EPA's Rating System Criteria

U.S. Environmental Protection Agency Rating System for Draft Environmental Impact Statements

Definitions and Follow-Up Action*

Environmental Impact of the Action

LO -- Lack of Objections: The Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC -- Environmental Concerns: The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO -- Environmental Objections: The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the noaction alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU -- Environmentally Unsatisfactory: The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 -- Adequate: EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 -- Insufficient Information: The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new, reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 -- Inadequate: EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment February, 1987.

